

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

BRIAN F. HOGAN

PLAINTIFF

v.

No. 4:02CV152-P-A

ROBERT JOHNSON, ET AL.

DEFENDANTS

**ORDER DENYING PLAINTIFF'S MOTION
FOR RELIEF FROM JUDGMENT OR ORDER**

This matter comes before the court on the plaintiff's motion for reconsideration of the court's November 18, 2002, memorandum opinion and final judgment dismissing the plaintiff's case for failure to state a claim upon which relief could be granted. The court interprets the motion, using the liberal standard for *pro se* litigants set forth in *Haines v. Kerner*, 404 U.S. 519 (1972), as a motion for relief from a judgment or order under FED. R. CIV. P. 60. An order granting relief under Rule 60 must be based upon: (1) clerical mistakes, (2) mistake, inadvertence, surprise, or excusable neglect, (3) newly discovered evidence, (4) fraud or other misconduct of an adverse party, (5) a void judgment, or (6) any other reason justifying relief from the operation of the order. The plaintiff has neither asserted nor proven any of the specific justifications for relief from an order permitted under Rule 60. In addition, the plaintiff has not presented "any other reason justifying relief from the operation" of the judgment. Finally, the Fifth Circuit dismissed the appeal of this case as *frivolous*. As such, this court is prohibited from altering the judgment to make it contrary to the findings of the Fifth Circuit. As such, the plaintiff's request for reconsideration is **DENIED**.

SO ORDERED, this the 24th day of September, 2007.

/s/ W. Allen Pepper, Jr.

W. ALLEN PEPPER, JR.

UNITED STATES DISTRICT JUDGE